Placed on 1st reading & referred to HPD 2/7/22; 2nd reading 2/22/22

ORDINANCE NO. 04-2022

BY: O'

Baker, Bullock, Kepple, Litten, O'Malley, Rader, Shachner

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council amending certain penalties within Chapter 13 Building Code, of the Lakewood Codified Ordinances to establish more appropriate penalties for violation of the Property Maintenance and Safety Code.

WHEREAS, Lakewood's Building Code has not been reviewed or updated in many years; and

WHEREAS, upon review of the Building Code, discrepancies were found among the various penalties which need to be clarified and corrected; and

WHEREAS, the Administration wishes to establish more reasonable penalties for violation of the Building Code; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that these sections should be updated for enforcement; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. That current Section 1306.68 For Failure to Secure Permit, currently reading as follows:

1306.68 FOR FAILURE TO SECURE PERMIT.

Where work, for which a permit is required, is started prior to obtaining such permit, the fees required by said permit shall be double. Whoever performs any work or installs any appliance, device, or equipment without first securing the permit required therefor under the provisions of this Code or other applicable Ordinances of the City of Lakewood; or refuses, neglects, or fails to secure any permit for the storage, use, or handling of a hazardous substance, shall be guilty of a misdemeanor of the fourth degree.

is hereby repealed.

Section 2. That new Section 1306.68 For Failure to Secure Permit, is hereby enacted to read as follows:

1306.68 FOR FAILURE TO SECURE PERMIT.

Where work, for which a permit is required, is started prior to obtaining such permit, the fees required by said permit shall be double. Whoever No person shall perform any work or install any appliance, device, or equipment without first securing the permit required therefor under the provisions of this Code or other applicable law. Ordinances of the City of Lakewood; No person shall or refuse, neglect, or fail to secure any permit for the storage, use, or handling of a hazardous substance. shall be guilty of a misdemeanor of the fourth degree.

Section 3. That Section 1321.99 Penalty, of the Lakewood Codified Ordinances currently reading as follows:

1321.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the third degree. If the offender has been previously convicted of a violation of this chapter, such second or subsequent offense shall constitute a misdemeanor of the second degree.

is hereby repealed.

Section 4. That new Section 1321.99 Penalty of the Lakewood Codified Ordinances is enacted to read as follows:

1321.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the third degree. If the offender has been previously convicted of a violation of this chapter, such second or subsequent offense shall constitute a misdemeanor of the second first degree.

Section 5. That Section 1323.01 Registration Requirement, of the Lakewood Codified Ordinances currently reading as follows:

1323.01 REGISTRATION REQUIREMENT.

- (a) No person, corporation, partnership, firm or other business association acting in the capacity of a contractor shall work at the trade or occupation of building, constructing, altering, repairing, painting, moving or demolishing any building or other structure or do landscaping on the site thereof or do any plaster work, mason work, brick laying, roofing work, paving, fencing or commercial snow plowing by motor vehicle, unless such person, corporation, partnership, firm or other business association has been duly registered as a contractor by the Building Department.
- (b) Persons employed by the owner of the property in the capacity of a Building Custodian shall not be required to register or be otherwise subject to any provisions of this chapter.
- (c) "Contractor", for the purpose of this section, means any person, corporation, partnership, firm or other business association who performs any work specified above for consideration evidenced by an oral or written agreement. "Contractor", for purposes of this section, shall also mean any person, firm, corporation or other business association which negotiates a contract either written or oral for any work specified above, but does not perform physical labor to complete the work as set forth in the contract. No corporation, partnership, firm or other business association shall engage in work for which a Certificate of Registration is required, unless at least one responsible member, officer or employee of such corporation, partnership, firm or other business association has been registered pursuant to this chapter. All work performed by such corporation, partnership, firm or other business association shall be under the direct supervision of the registered person.
- (d) A person, corporation, firm or other business association acting in the capacity of a contractor and performing more than one type of work as set forth in subsection (a) hereof, shall only be required to register once annually as a contractor regardless of the number and types of work performed.

(e) In accordance with laws of the United States that require employers to obtain I-9 or other documentation to show that only U.S. citizens or other eligible workers are employed, individuals or entities that perform any construction work under this Section shall not employ or subcontract to any individual, sole proprietorship, or other entity, where the individual, the owner, or owners do not have the legal right to work in the United States. Whoever violates this subsection of this chapter shall be guilty of a misdemeanor of the first degree.

is hereby repealed.

Section 6. That new Section 1323.01 Registration Requirement is hereby enacted to read as follows:

1323.01 REGISTRATION REQUIREMENT.

- (a) No person, corporation, partnership, firm or other business association acting in the capacity of a contractor shall work at the trade or occupation of building, constructing, altering, repairing, painting, moving or demolishing any building or other structure or do landscaping on the site thereof or do any plaster work, mason work, brick laying, roofing work, paving, fencing or commercial snow plowing by motor vehicle, unless such person, corporation, partnership, firm or other business association has been duly registered as a contractor by the Building Department.
- (b) Persons employed by the owner of the property in the capacity of a Building Custodian shall not be required to register or be otherwise subject to any provisions of this chapter.
- (c) "Contractor", for the purpose of this section, means any person, corporation, partnership, firm or other business association who performs any work specified above for consideration evidenced by an oral or written agreement. "Contractor", for purposes of this section, shall also mean any person, firm, corporation or other business association which negotiates a contract either written or oral for any work specified above, but does not perform physical labor to complete the work as set forth in the contract. No corporation, partnership, firm or other business association shall engage in work for which a Certificate of Registration is required, unless at least one responsible member, officer or employee of such corporation, partnership, firm or other business association has been registered pursuant to this chapter. All work performed by such corporation, partnership, firm or other business association shall be under the direct supervision of the registered person.
- (d) A person, corporation, firm or other business association acting in the capacity of a contractor and performing more than one type of work as set forth in subsection (a) hereof, shall only be required to register once annually as a contractor regardless of the number and types of work performed.
- (e) In accordance with laws of the United States that require employers to obtain I-9 or other documentation to show that only U.S. citizens or other eligible workers are employed, individuals or entities that perform any construction work under this Section shall not employ or subcontract to any individual, sole proprietorship, or other entity, where the individual, the owner, or owners do not have the legal right to work in the United States. Whoever violates this subsection of this chapter shall be guilty of a misdemeanor of the first degree.

Section 7. That section 1323.99 Penalties, currently reading as follows:

1323.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the third degree. If the offender has been previously convicted of a violation of this chapter, such second or subsequent offense shall constitute a misdemeanor of the second degree.

is hereby repealed.

Section 8. That new Section 1323.99 Penalty, of the Lakewood Codified Ordinances is hereby enacted to read as follows:

1323.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the third degree. If the offender has been previously convicted of a violation of this chapter, such second or subsequent offense shall constitute a misdemeanor of the second first degree.

Section 9. That new Section 1306.991 Penalty, of the Lakewood Codified Ordinances is hereby enacted to read as follows:

1306.991 Penalty

- (a) Any person who violates any provision of this code shall be guilty of a misdemeanor of the fourth degree on a first offense. If the offender has previously been convicted of a violation of this section, a violation is a misdemeanor of the third degree. If the offender has previously been convicted of two violations of this section, a violation is a misdemeanor of the second degree. If the offender has previously been convicted of three or more violations of this section, a violation is a misdemeanor of the first degree. Each day such violation occurs or continues shall constitute a separate offense.
- (b) Any person who violations any provision of this code which results in damage to property, injury to person or substantial risk of harm, shall be guilty of a misdemeanor of the first degree. Each day such violation occurs or continues shall constitute a separate offense.
- (c) The imposition of any penalty shall not preclude the Director of Law from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to require compliance with the provisions of this Code, or other applicable laws, ordinances, rules or regulations, or the orders or determinations of the Building Commissioner, the Mayor, the Board of Zoning Appeals and Board of Building Standards and Building Appeals.

Section 10. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 11. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted	3/7/2022	10 Mille
		Daniel J. O'Malley, President of Council

Maureen M. Bach, Clerk of Council

Approved 3/9/22

Meghan F. George, Mayor